

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 70 and Rule 70)

Applicant's or agent's file reference P050668WOHR6		FOR FURTHER ACTION		See Form PCT/PEA/46
International application No. PCT/EP2005/004133	International filing date (day/month/year) 19.04.2005	Priority date (day/month/year) 26.04.2004		
International Patent Classification (IPC) or national classification and IPC A61F2/00				
Applicant GFE MEDIZINTECHNIK GMBH				

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 70.	
2. This REPORT consists of a total of _____ sheets, including this cover sheet.	
3. This report is also accompanied by ANNEXES, consisting:	
a. <input checked="" type="checkbox"/> from the applicant and to the International Bureau a total of <u>2</u> sheets, as follows:	
<input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and other sheets containing rectifications authorized by this Authority (see Rule 70.15 and Section 607 of the Administrative Instructions)	
<input type="checkbox"/> sheets which reproduce earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Item No. I and the Supplemental Box.	
b. <input type="checkbox"/> (sent to the International Bureau only) a total of electronic type and number of electronic carrier(s) _____, containing a sequence listing in machine readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions)	
4. This report contains indications relating to the following items:	
<input checked="" type="checkbox"/> Item No. I	Basis of the report
<input type="checkbox"/> Item No. II	Priority
<input type="checkbox"/> Item No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Item No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Item No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; claims and explanations supporting such statement
<input type="checkbox"/> Item No. VI	Certain documents cited
<input checked="" type="checkbox"/> Item No. VII	Certain defects in the international application
<input type="checkbox"/> Item No. VIII	Certain observations on the international application
Date of submission of the demand	Date of completion of this report
Name and mailing address of the IP/EAP/E	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2005/004133

Box No. 1 Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item:

☐ This report is based on translations from the original language into the following language(s) _____ which is the language of a translation furnished for the purposes of:

- ☐ international search (Rule 12.3 and 23.1(b))
☐ publication of the international application (Rule 12.3)
☐ international preliminary examination (Rule 22.2 and/or 39.2)

2. With regard to the elements of the international application, this report is based on replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not attached as follows:

☐ the international application as originally filed/unattached
☒ the description:

pages: 1-4 _____ as originally filed/furnished

pages: _____ received by this Authority on _____

pages: _____ received by this Authority on _____

☒ the claims:

nos. _____ as originally filed/furnished

nos. _____ as amended (together with any statement) under Article 19

nos. 1-8 _____ received by this Authority on 23.02.2006 with letters

nos. _____ received by this Authority on _____

☒ the drawings:

sheets: 1/2, 2/2 _____ as originally filed/furnished

sheets: _____ received by this Authority on _____

sheets: _____ received by this Authority on _____

☐ a sequence listing and/or any related tables - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:

☐ the description, page(s) _____

☐ the claims, nos. _____

☐ the drawings, sheets/sign. _____

☐ the sequence listing (specify): _____

☐ any table(s) related to sequence listing (specify): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to not go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 13.2(c)).

☐ the description, page(s) _____

☐ the claims, nos. _____

☐ the drawings, sheets/sign. _____

☐ the sequence listing (specify): _____

☐ any table(s) related to sequence listing (specify): _____

* If item 4 applies, none or all of these sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2005/004133

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
1. Statements	
Novelty (N)	Claims 1-6 YES Claims NO
Inventive step (IS)	Claims 1-6 YES Claims NO
Industrial applicability (IA)	Claims 1-6 YES Claims NO
2. Citations and explanations (Rule 70.7)	<p>Reference is made to the following documents:</p> <p>D1: US-A-20030171823</p> <p>D2: EP-A-0986993</p> <p>Document D1, which is considered the closest prior art, discloses (see figure 3) a hernia mesh, from which the subject matter of claim 1 differs in that the mesh has first and second annular mesh layers which have access slits that are offset relative to one another by 180°, wherein the two mesh layers are of identical design.</p> <p>The subject matter of claim 1 is therefore novel (PCT Article 33(2)).</p> <p>The problem addressed by the present invention can therefore be considered that of greatly simplifying the production process by comparison to the known technique, by producing the mesh layers from just one blank.</p> <p>The solution to this object, as proposed in claim 1 of the present application, involves an inventive step (PCT Article 33(3)), for the following reasons: No document</p>

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V

Reasoned statement under Article 38(2) with regard to novelty, inventive step or industrial applicability, objections and explanations regarding such statement

from the prior art discloses or in any way suggests the inventive feature. The prior art teaches that, in shaping of the hernia meshes, the main consideration was always their adaptation to the anatomy, not their simple production, with the result that the present invention goes against this preconception.

Claims 2-6 are dependent on claim 1 and thus also meet the PCT requirements for novelty and inventive step.

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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

1. Independent claim 1 has not been correctly drafted in the two-part form defined by PCT Rule 6.3(b). Accordingly, the features known from document U1 should have been placed in the preamble and the remaining features specified in the characterizing part.
2. Pursuant to PCT Rule 5.1(a)(ii), the description should have cited document D1 and briefly outlined the relevant prior art contained therein. The applicant should make clear in the description which features of the subject matter of independent claim 1 are already known from document D1.